

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 3634 - SB 3584

March 10, 2012

SUMMARY OF BILL: Specifies that a pregnant woman, who knowingly or intentionally introduces cocaine, marijuana, heroin, or a hallucinogenic substance into her body would be guilty of a Class E felony, if the child born of the pregnancy tests positive at the time of the birth for those substances or their metabolites. If the child dies as a result, it is a Class D felony offense.

ESTIMATED FISCAL IMPACT:

**Increase State Expenditures - \$1,140,000
\$3,377,000/Incarceration***

Increase Federal Expenditures - \$720,600

Assumptions:


- According to information on the March of Dimes website, four percent of pregnant women in the United States use illicit drugs. Each year there are 85,560 births in Tennessee. Applying the national percentage to Tennessee, approximately 3,422 pregnant women (85,560 births x 4%) in Tennessee use illicit drugs during her pregnancy.
- Estimate assumes three percent or 103 (3,422 x 3%) of these mothers will be charged with a felony offense as a result of an infant testing positive at birth for cocaine, marijuana, heroin, or a hallucinogenic substance.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in 12 additional offenders. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 115 felony admissions as a result of this bill. Of the total, 95 percent or 109 will be Class E felonies and the remaining 5 percent or 6 will be Class D felonies.
- According to DOC, the average operating cost per offender per day for calendar year 2012 is \$61.36. The average post-conviction time served for a Class E felony is 1.28 years (467.52 days) at a cost of \$28,687.03 (\$61.36 x 467.52 days), and 1.86 years (679.37 days) at a cost of \$41,686.14 (\$61.36 x 679.37 days) for a Class D felony.

- The additional operating cost for 109 Class E offenders is \$3,126,886.27 ($\$28,687.03 \times 109$ offenders). The additional operating cost for six Class D offenders is \$250,116.84 ($\$41,686.14 \times 6$ offenders). The total additional operating cost is \$3,377,003.11 ($\$3,126,886.27 + \$250,116.84$).
- According to the Department of Children's Services, approximately 66.6 percent of mothers charged with a Class E felony will be impacted. The result will be an additional 65 children, ($103 \times 95\% \times 66\%$) entering into custody with an average length of stay of 219 days.
- According to DCS, the average cost per day is \$96, resulting in an increase in expenditures of \$1,366,560 ($65 \times 219 \text{ days} \times \96).
- Of the total increase of \$1,366,560, seven percent (\$95,659.20) will be Title IV-E federal funds; 49 percent (\$669,614.40) will be through TennCare; and 44 percent (\$601,286.40) will be state funds.
- Of the \$669,614.40 in TennCare funds, \$226,410.02 are state funds at a rate of 33.812 percent and \$443,204.38 are federal funds at a 66.188 percent match rate.
- It is estimated that DCS will need six additional case managers resulting in an increase in expenditures of \$362,718 which includes salaries (\$34,400), benefits (\$11,053), and communications, networking, travel, and supplies (\$15,000) for each position.
- It is estimated that DCS will need two additional team leaders resulting in an increase in expenditures of \$131,260 which includes salaries (\$38,900), benefits (\$11,730), and communications, networking, travel, and supplies (\$15,000) for each position.
- Of the total increase of \$493,978, seven percent (\$34,578) will be Title IV-E federal funds; 45 percent (\$222,290) will be through TennCare; and 48 percent (\$237,110) will be state funds.
- Of the \$222,290 in TennCare funds, \$75,161 are state funds at a rate of 33.812 percent and \$147,129 are federal funds at a 66.188 percent match rate.
- Total increase in state expenditures of \$1,139,967 ($\$601,286 + \$226,410 + \$237,110 + \$75,161$) and total increase in federal expenditures of \$720,570 ($\$95,659 + \$443,204 + \$34,578 + \$147,129$).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

/lsc